



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



May 7, 2008

Bruce W. McClendon FAICP  
Director of Planning

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF REGIONAL PLANNING: APPROVE AMENDMENTS TO COUNTY CODE  
TITLE 21 (SUBDIVISIONS) AND TITLE 22 (PLANNING AND ZONING) RELATING TO  
APPEAL PROCEDURES  
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

**SUBJECT**

An ordinance to clarify and standardize appeal periods and to eliminate transcribing costs.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Adopt the ordinance amendments to Title 21 (Subdivisions) and Title 22 (Planning and Zoning) of the County Code regarding appeal procedures, as provided by County Counsel.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On August 7, 2007, the Board of Supervisors (Board) approved a motion directing County Counsel, working with the Director of Planning and the Executive Officer of the Board of Supervisors, to prepare a draft amendment to the Zoning Ordinance to clarify and standardize the start and end date of an appeal period for a Conditional Use Permit (CUP), and also to eliminate the requirement that appellants pay for the cost of transcribing earlier hearings. In addition, the Board requested any associated changes to written staff procedures and guidelines be revised to clarify the appeals process for staff and members of the public. The Board requested that any ambiguities between appeal periods for CUPs and associated entitlement applications should be resolved. In addition, staff shall review how other jurisdictions handle zoning appeals, as compared to what is being proposed by the County.

**Appeal Periods and Effective Dates**

Title 21 (Subdivisions) states: All appeals shall be submitted and acted upon in the manner prescribed by Section 66452.5 of the Government Code. Section 66452.5 requires any appeal be filed with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken. This applies to all parcel maps and tentative maps.

However, Title 22 (Planning and Zoning) states: The decision of the director, hearing officer or commission shall become effective 15 days after receipt of the notice of decision by the applicant, unless appealed to or called up for review prior to that date. This applies to all conditional use permits, variances, nonconforming reviews, temporary use permits, and any other permit regulated by Title 22.

For consistency between Title 21 and Title 22, Title 22 should state that any appeal should be filed within 10 days after the action of the advisory agency from which the appeal is being taken. However, staff is concerned about shortening the appeal period from 15 to 10 days for many permits approved by the County. A shortened appeal time would give the community less time to review the findings and conditions of the case to determine if they have any concerns regarding the approval.

Although the ordinance amendments will not modify the 10 and 15 day appeal periods, modifying the following requirements will clarify and standardize the start and end dates of the appeal periods.

- Title 21 is modified as follows:  
All appeals shall be submitted within the time period required by, and acted upon in the manner prescribed by Section 66452.5 of the Government Code. The time period in which to file an appeal as set forth in shall also apply to the appeal of any permit or other entitlement concurrently acted upon under Title 22 of this code which concerns, in whole or in part, the same tentative map, parcel map, or request for waiver.
- Title 22 is modified as follows:  
The decision of the director, hearing officer or the commission shall be effective on the 15th calendar day following the date of the decision, except and unless the decision is timely appealed or called up for review by the commission prior to that date, where available. To be timely, an appeal or call for review must be initiated on or before the 14th calendar day following the date of the decision.
- Title 21 and Title 22 are modified with the following additions:  
If the deadline for initiation of an appeal or call for review falls on a non-business day for the relevant appellate body, then the deadline for an appeal or call for review is extended to the next business day and the effective date of the decision shall be the following day.

#### **Transcription Fees**

Transcription fees are currently required when a case is appealed to the Board, both Title 21 and Title 22 state: When a transcript of the previous proceeding is required, the appellant shall pay an additional deposit, in an amount to be determined by the secretary or clerk of the appellate body, to be ample to cover the cost of one original and five copies of the transcripts of the previous hearings. If the actual cost of the transcripts is more than the amount deposited by the appellant, such appellant shall deposit the deficiency. This fee is required in addition to the standard appeal fee for an appeal to the Board.

From 2002 to 2006 approximately 35 cases were appealed to the Board of Supervisors; the additional amount paid by the appellant ranged from \$700 to \$3,800 for each project. In addition, from 2002 to 2006 approximately 15 cases were called for review by the Board; many of these cases the Board called for review rather than asking a group of residents to absorb the cost. The additional deposit for transcripts burdens a neighbor or other interested parties with an unnecessary expense. This is particularly unfair when a resident has legitimate concerns about the impacts of a proposed project, as it discourages filing an appeal to one's elected representatives. Given that very few cases reach the Board on appeal, the cost of preparing these transcripts can and should be absorbed by the County. These provisions will be eliminated from Title 21 and Title 22.

#### **Other Jurisdictions**

Staff surveyed eight counties and three cities to determine their appeal procedures. This survey shows the appeal period days are not consistent: (2) use 12 days, (3) use 15 days, (5) use 10 days, and (1) uses 14 days. However, the date the appeal period begins is consistent. Nine out of the 11 jurisdictions surveyed indicate "after", "from" or "following" the date of the decision. Only three of the jurisdictions indicated the last date of the appeal would be extended to the following work day if the appeal ends on a weekend or holiday, the other jurisdictions were silent on this issue. The ordinance modifications proposed by Regional Planning would be consistent with local jurisdictions and provide additional clarification.

#### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The proposed ordinance amendments will implement the following Strategic Plan Organizational Goals:

**Goal 1: Service Excellence.** Codifying the beginning and ending of the appeals period, and clarifying when the appeals period begins and ends will provide the public with easy access to this zoning and subdivision information. This ordinance amendment is responsive to the public's request for clarification on the appeals procedure.

**Goal 3: Organizational Effectiveness.** Clarifying the appeals procedure and eliminating additional transcription fees will ensure that service delivery systems are more efficient, effective, and goal-orientated.

#### **FISCAL IMPACT/FINANCING**

Eliminating the requirement for the appellant to pay transcription fees for previous hearings will have a fiscal impact on the County as the Board of Supervisor's Executive Office will now need to absorb these costs. Implementing the modification and clarification of the appeal period beginning and ending dates, as proposed in the draft ordinance will not have a negative fiscal impact on the County or this Department. This is a procedural clarification of an existing process.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Honorable Board of Supervisors  
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This ordinance is necessary to clarify the appeals procedure so there is certainty to the applicant and other interested parties on when a project can be appealed. In addition, eliminating the requirement for the appellant to pay the transcription fees from earlier hearings will make the appeal procedure more accessible to the public. The proposed ordinance is exempt from the California Environmental Quality Act based on Section 15061(b) (Chapter 3, Title 14, California Code of Regulations) because there is no possibility that the proposed procedural changes would have a significant effect on the environment.

#### **IMPACTS ON CURRENT SERVICES (OR PROJECTS)**

The proposed amendment will modify the way appeals are processed by the County. Determining the end of the appeal period has been a problem for applicants and appellants; the amendments to Title 21 and Title 22 will eliminate the uncertainty regarding the appeal period. Eliminating the payment of fees for transcripts from previous hearings could increase the number of subdivision and zoning cases appealed to the Board as the appellants would not be required to pay this additional fee.

#### **CONCLUSION**

These proposed ordinance amendments clarify and standardize the appeal period for conditional use permits and associated entitlements, as directed by the Board. The previous requirement for the appellant to pay transcription fees will no longer discourage filing an appeal to one's elected representatives. The Department of Regional Planning has prepared associated changes to written staff procedures and guidelines necessary to clarify the appeals process for staff and members of the public. These guidelines include a memorandum to County staff describing the ordinance amendments and appeal period verification forms. These documents will be available to staff and the public upon adoption of the appeal ordinance amendments.

Respectfully submitted,

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DEPARTMENT OF REGIONAL PLANNING



Bruce W. McClendon, FAICP  
Director of Planning

BWM:KMS

Attachments: Board Motion of August 7, 2007

c: County Counsel





MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-  
Clerk of the Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

At its meeting held August 7, 2007, the Board took the following action:

2

The following statement was entered into the record for Supervisors Antonovich and Yaroslavsky:

"The County's Regional Planning Commission, as well as Hearing Officers in the Department of Regional Planning, conduct public hearings and issue determinations concerning various discretionary land-use applications. Projects that require legislative approvals, such as a Zone Change or General Plan Amendment, automatically advance to the Board of Supervisors for final action. For adjudicatory approvals, such as Conditional Use Permits (CUPs), a determination is final unless the applicant or an interested party appeals the case to the Board of Supervisors; alternately, the Board may 'call for review' the initial determination by the Commission.

"In the case of appeals to the Board of Supervisors, 'interested parties' (anyone other than the applicant) potentially encounter two problems. Both items are largely unique to the County of Los Angeles, in that they are inconsistent with how many other nearby jurisdictions process appeals. The first item often confuses the public about the deadline in which to file an appeal, and the second item may discourage the filing of appeals due to expensive appeal fees.

"In the first instance, appeals on zoning permits to the Board of Supervisors must be filed within a set time period, typically 15 days. The County's Zoning Ordinance indicates that this 15-day period starts when the applicant 'receives' notice of the decision by the Planning Commission. The start—and, therefore, the end—of the appeal period depends on outside parties, such as the United States Postal Service and the applicant, rather than on any actions by the Commission or County staff. Other jurisdictions start the appeal period when the Commission acts at the actual public meeting itself, or on the date staff mails the applicant the determination. In short, for jurisdictions other than the County the end of the appeal period is specifically identified. In this regard the applicant and all interested parties are notified well in advance.

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2 (Continued)

"In the second instance, when a case is appealed to the Board, the County requires an 'additional deposit' from the appellant to cover the costs of transcribing the earlier hearing(s) by the Hearing Officer or the Commission. This fee is in addition to the standard appeal fee, and it can be prohibitively expensive. On one project the Commission conducted seven public hearing sessions, requiring an additional fee of more than \$7,000 (Board of Supervisors called this case for review rather than asking a group of residents to absorb the cost). The 'additional deposit' for transcripts burdens a neighbor or other interested party with an unnecessary expense, one that is not charged by many other jurisdictions. This is particularly unfair when a resident has legitimate concerns about the impacts of a proposed project, as it discourages filing an appeal to one's elected representatives. Given that very few cases reach the Board on appeal, the cost of preparing these transcripts can and should be absorbed by the County.

"We therefore recommend that the Board direct County Counsel to work with the Director of Planning and the Executive Officer of the Board to:

1. Draft an amendment to the Zoning Ordinance to clarify and standardize the start and end dates of the appeal period for a Conditional Use Permit (CUP), and to eliminate the requirement that appellants pay for the cost of transcribing earlier hearings by the Hearing Officer or the Regional Planning Commission;
2. Prepare any associated changes to written staff procedures and guidelines necessary to clarify the appeals process for staff and members of the public and resolve any ambiguities between appeal periods for CUPs and associated entitlement applications; and
3. Return to the Board within 60 days with the new Zoning Ordinance and other proposed changes."

Richard D. Weiss, Assistant County Counsel, responded to questions posed by the Board.

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2 (Continued)

After discussion, Supervisor Knabe made the following statement:

“In order to determine if what is being proposed is fair and reasonable, I would like to have a comparison with what other jurisdictions require for zoning appeals.”

Therefore, Supervisor Knabe made a suggestion that Supervisors Antonovich and Yaroslavsky's recommendation be amended to also direct County Counsel and the Director of Planning to report back to the Board in 60 days on how other jurisdictions handle zoning appeals, as compared to what is being proposed. Supervisors Antonovich and Yaroslavsky accepted Supervisor Knabe's amendment.

On motion of Supervisor Antonovich, seconded by Supervisor Yaroslavsky, unanimously carried (Supervisor Molina being absent), the Board directed County Counsel to work with the Director of Planning and the Executive Officer of the Board to:

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Copies distributed:

Each Supervisor  
Chief Executive Officer  
County Counsel  
Director of Planning  
Chairperson, Regional Planning Commission



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